

**REMARKS**

Claims 41-48 and 50 are pending in this application and claims 47 and 48 are withdrawn. By this Amendment, claim 41 is amended and claim 49 is cancelled. Support for the amendment to claim 41 can be found at least in cancelled claim 49. In view of the following, reconsideration and allowance are respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration as the amendment merely incorporates the features of claim 49 into its base claim; (c) satisfy a requirement of form asserted in the previous Office Action; and (d) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

**I. Telephone Interview**

The courtesies extended to Applicant's representatives by Examiner Lilling at the telephone interviews held January 30, 2008 and January 31, 2008 are appreciated. The reasons presented at the interviews as warranting favorable action are incorporated into the remarks below and constitute Applicant's record of the interview.

**II. Allowable Subject Matter**

Applicant thanks the Examiner for the indication that claim 49 contains allowable subject matter, and would be allowable if rewritten in independent form to incorporate the features of base claim 41.

**III. Improper Final Rejection**

For the reasons presented herein, Applicant respectfully submits that the status of this Office Action should not be Final because claims 42, 44, 46 and 50 have not been properly rejected on the merits in view of an art reference that constitutes prior art, as discussed below.

**IV. Claim Rejection under 35 U.S.C. §102**

The Office Action rejects claims 41 and 43 under 35 U.S.C. §102(b) over Williams, Enzymic Hydrolysis of Polylactic Acid, Department of Dental Sciences, School of Dental Surgery, University of Liverpool, Vol. 10, pages 5 -7 (Williams). This rejection is respectfully traversed.

By this Amendment, claim 41 is amended to incorporate the allowable subject matter of claim 49. Therefore, the rejection of claim 41 is moot.

Claim 43 depends from claim 41. Because the applied reference fails to teach, disclose or suggest the features recited in independent claim 41, dependent claim 43 is patentable for at least the reasons that claim 41 is patentable, as well as for the additional features it recites.

Accordingly, withdrawal of the rejection is respectfully requested.

**V. Claim Rejection under 35 U.S.C. §103**

The Office Action rejects claim 45 under 35 U.S.C. §103(a) over Williams; and rejects claims 42, 44, 46 and 50 under 35 U.S.C. §103(a) over JP Publication No. 2003-079388 (Shuichi Matsumura, JP '388). These rejections are respectfully traversed.

**Claim 45**

Claim 45 depends from independent claim 41. As discussed above, because the applied references fail to teach, disclose or suggest the features recited in independent claim 41, dependent claim 45 is patentable for at least the reasons that claim 41 is patentable, as well as for the additional features it recites.

Accordingly, withdrawal of the rejection is respectfully requested.

**Claims 42, 44, 46 and 50**

Applicant respectfully submits, as was submitted in the Amendment dated September 28, 2007 and the January 30, 2008 and January 31, 2008 telephone interviews, that JP '388 is not available as prior art against the instant claims. Thus, because these claims have only been rejected in view of JP '388, the finality of this Office Action or a subsequent rejection will be improper.

The present application is the national phase of International Application No. PCT/JP03/09676, filed **July 30, 2003**. On the other hand, JP '388 was published on **March 18, 2003**. Although JP '388 was published before the PCT/JP03/09676 filing date, JP '388 still does not constitute prior art under any sections of 35 U.S.C. §102. Specifically, because JP '388 is not a U.S. Patent or U.S. Patent Application Publication, and is not an international application designating the U.S. and published under Article 21(2) in the English language, JP '388 does not qualify as prior art with respect to the present application under 35 U.S.C. §102(e). Additionally, because JP '388 was published on March 18, 2003, which is less than one year prior to the July 30, 2003 effective U.S. filing date for the present application (*see* MPEP §2133), JP '388 does not qualify as prior art with respect to this application under 35 U.S.C. §102(b).

Moreover, JP '388 and the present application are to the same inventor. MPEP §706.02(a)(II)(C) provides that "[f]or 35 U.S.C. §102(a) to apply, the reference must have a publication date earlier in time than the effective filing date of the application, and **must not be applicant's own work**" (*emphasis added*). Therefore, because JP '388 and the present application are to the same inventor, JP '388 also does not qualify as prior art under 35 U.S.C. §102(a).

Accordingly, withdrawal of the rejection in view of JP '388 is respectfully requested.

**VI. Rejoinder**


Claim 47 depends from independent claim 41. Upon allowance of at least claim 41 rejoinder of claim 47 is respectfully requested. Claim 48 depends from independent claim 42. Upon allowance of at least claim 42 rejoinder of claim 48 is respectfully requested.

**VII. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

  
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JAO:AAT/ccs

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